

IN THE UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF
WISCONSIN

The ESTATE OF SYLVILLE K. SMITH, by)	
Personal Representative Mildred Haynes,)	No. 17-cv-862
Patrick Smith, and Mildred Haynes, on her)	
own behalf,)	
)	
Plaintiffs,)	JURY TRIAL DEMANDED
)	
v.)	
)	
CITY OF MILWAUKEE, WISCONSIN)	
and DOMINIQUE HEAGGAN-BROWN,)	
)	
Defendants.)	

EXHIBIT 46

Search Warrant Return for Ford Fusion

David B. Owens
Danielle Hamilton
LOEVY & LOEVY
311 N. Aberdeen St, Third FL
Chicago, IL 60607
(312) 243-5900

Wisconsin Department of Justice DCI
ACISS Search Warrant Report - No Charges 16-4915/17

Report Date: 08/17/2016

Primary Information

Description: **Search Warant for Ford Fusion - Lic # DHJ4061**
Occurence From: **08/15/2016 16:29**
Occurence To: **08/22/2016 14:00**
Reporting LEO: **Martinez, Antonio H (Arson DCI / Wisconsin Department of Justice DCI)**
Approval Status: **Approved**
Approved Date: **09/02/2016**
Approved By: **Virgil, Tina R (DCI Administrative Services / Wisconsin Department of Justice DCI)**

Synopsis

On August 15, 2016, Special Agent Antonio Martinez obtained a search warrant for a 2016 Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 and a Vehicle Identification Number of 1FA6POHDXG5104964 that is currently being housed and secured at the Wisconsin Crime Laboratory located at 1578 S. 11th Street, Milwaukee, WI 53204. This warrant was signed by the Honorable Circuit Court Judge Joseph M. Donald, on August 15, 2016 at 4:16 PM.

On August 15, 2016 at approximately 4:29 PM Special Agent Antonio Martinez went to the Wisconsin State Crime Laboratory located at 1578 S. 11th Street, Milwaukee, WI 53204. Special Agent Martinez met with WSCL employees and pursuant to the search warrant turned the over control of the 2016 Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 to be examined for any and all evidence related to the Officer Involved Death that occurred at 3218 N. 44th St, Milwaukee Wisconsin.

Related Addresses

<u>Address</u>	<u>Relationship</u>
3216 N 44, Milwaukee, Wisconsin , United States of America	Location of Event
3218 N 44th St, Milwaukee, Wisconsin 53216 , United States of America	Location of Event

Related Subjects

<u>Name</u>	<u>Type</u>	<u>Sex</u>	<u>Race</u>	<u>DOB</u>	<u>Relationship</u>
Chris Johnson	Law Enforcement Agency	---	---	---	Law Enforcement
Conrad, Lindsey	Person	Female	White	---	Law Enforcement
Donald, Joseph M.	Person	Male	Black	---	Law Enforcement
Parker, Jon	Person	Male	Unknown	---	Law Enforcement

Record Status Information

Record Origination Operator: **Martinez, Antonio H (Arson DCI / Wisconsin Department of Justice DCI)**
Record Origination Date: **08/17/2016 09:26**
Last Update Operator: **Virgil, Tina R (DCI Administrative Services / Wisconsin Department of Justice DCI)**
Last Update Date: **09/02/2016 08:27**

Reporting LEO	Date	Supervisor	Date
Martinez, Antonio H (Arson DCI / Wisconsin Department of Justice DCI)		Virgil, Tina R (DCI Administrative Services / Wisconsin Department of Justice DCI)	9/2/2016

Narrative begins on the following page.

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-4915/17

On August 15, 2016 Special Agent Antonio Martinez obtained a search warrant for evidence on and inside a 2016 Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 and a Vehicle Identification Number of 1FA6POHDXG5104964 that is currently being housed and secured at the Wisconsin State Crime Laboratory located at 1578 S. 11th Street, Milwaukee, WI 53204. The warrant was signed by the Honorable Circuit Court Judge Joseph M. Donald, on August 15, 2016 at 4:16 PM. (See Attachment Section).

On August 15, 2016 at approximately 4:29 PM Special Agent Antonio Martinez went to the Wisconsin State Crime Laboratory located at 1578 S. 11th Street, Milwaukee, WI 53204. Special Agent Martinez met with WSCL employee Chris Johnson. Special Agent Martinez provided Johnson with a copy of the search warrant. Pursuant to the search warrant, Johnson was requested to examine and turn over any and all evidence recovered from the 2016 Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061.

On August 16, 2016 at approximately 8:00am, S/A Conrad responded to Milwaukee Police Departments impound lot located at 3811 W Lincoln Ave. S/A Conrad met with MPD officer Jon Parker who had a tow truck on scene to transport a 2016 Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 and a Vehicle Identification Number of 1FA6POHDXG5104964 to the Wisconsin State Crime laboratory at 1578 S. 11th Street, Milwaukee, WI 53204.

S/A Conrad observed the vehicle loaded on the tow truck at approximately 8:18am and followed it to the crime lab. S/A Conrad logged in at the crime lab at 8:31am. S/A Lindsey Conrad turned over the vehicle to intake Worker Bradley T. Weber for examination. Intake Worker Weber assigned case # R16-3133 to the evidence. S/A Conrad remained at the crime lab until S/A Martinez arrived on scene.

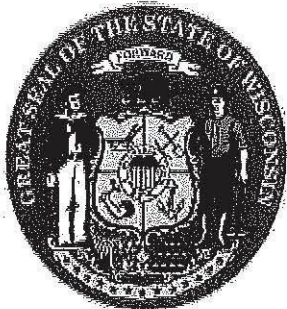
See examination of vehicle report for a list of evidence recovered and seized pursuant to this search warrant.

A copy of the search warrant, affidavit, motion to seal, order to seal and evidence list are attached to this report.

SEARCH WARRANT RETURNED:

On August 22, 2016, S/A Antonio Martinez met with ADA Megan M. Williamson at the High Intensity Drug Trafficking Area (HIDTA) office. ADA Williamson authored a Motion to Seal the search warrant due to the ongoing investigation. (See Attachment Section).

On August 22, 2016, the Honorable Circuit Court Judge Joseph M. Donald signed an order to seal the search warrant. (See Attachment Section).



CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF WISCONSIN
COUNTY OF MILWAUKEE

SEARCH WARRANT

The State of Wisconsin, to any Law Enforcement Officer of the State of Wisconsin:

WHEREAS, Special Agent Antonio H. Martinez has this day complained (by attached affidavit) to this Court upon oath showing probable cause that on Saturday, August 15, 2016, in the County of Milwaukee, there is now located and concealed in and upon certain property, located within the City of Milwaukee, in said County, and more particularly described as follows:

DESCRIBE VEHICLE: A 2016 Black Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 and a Vehicle Identification Number of 1FA6P0HDXG5104964 that is currently being housed and secured at the Wisconsin Crime Laboratory 1578 S. 11th Street, Milwaukee, WI 53204

DESCRIBE OBJECTS OF SEARCH:

- (1) Firearms, and Keys to a 2016 Black Ford Fusion 4-Door with an assigned Michigan registration plates of DHJ4061
- (2) Documents, bills, keys, writings, cell phones, books, records, receipts, notes, ledgers, receipts relating to the purchase and /or possession of firearms and/or other documentary evidence establishing who is in control of said vehicle;
- (3) DNA evidence and fingerprint evidence contained with said vehicle wherein this evidence may relate to and/or identify the suspect of the armed robbery;

Which thing(s) were used in the commission or may constitute evidence of a crime, to-wit:

DESCRIBE CRIME OR CRIMES:

- (1) Recklessly Endangering Safety;

Committed in violation section(s) 941.30 of Wisconsin State Statutes.

THEREFORE in the name of the State of Wisconsin, you are commanded forthwith to the search the said vehicle for said things and to take possession thereof, if found; whereas, you are further commanded to return this warrant within forty-eight hours before the Assistant Chief Deputy Clerk of the Circuit Court, Crime, Misdemeanor, Traffic Division, or his designee, to be dealt with according to law.

WITNESS, the Honorable M. Joseph Donald, Judicial Court Commissioner of the First Judicial District of Wisconsin, at Milwaukee, Wisconsin, at 4:16 on August 15, 2016.
(Hour, AM/PM) (Month, Day, Year)



M. Joseph Donald
Judicial Court Commissioner of Circuit Court Br. 2

SEARCH WARRANT RETURN

CIRCUIT COURT }
COUNTY OF MILWAUKEE } ss.

Dated at Milwaukee, Wisconsin, this _____ day of _____ 2016.

I hereby certify that by virtue of the within writ I searched the within named premises and found the following: _____

_____ and have same now in my possession subject to the disposition of the Circuit Court.

Police Officer

AFFIDAVIT FOR SEARCH WARRANT

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

Affiant, Special Agent Antonio H Martinez, being first duly sworn on oath, states as follows:

AFFIANT'S TRAINING & EXPERIENCE

1. That affiant is a state certified law enforcement officer for the Wisconsin Department of Justice, Arson Bureau, currently assigned to Milwaukee Regional Office (WI-DOJ/DCI), and involved in the investigation of Arson and Explosives, along with general investigative duties.
2. That affiant has worked full-time as a law enforcement officer for the past thirty five years (35) years;
3. That affiant has received extensive training in the field of arson investigation and the unlawful possession of firearms and possession of firearms by prohibited persons; that affiant has, in the course of affiant's experience as a law enforcement officer, been trained and have arrested individuals for firearms related offenses including Carrying a Concealed Weapon (Wisconsin Statute Section 941.23), Possession of a Dangerous Weapon by a Child (Wisconsin Statute Section 948.60), Possession of a Short-Barreled Shotgun (Wisconsin Statute Section 941.28), and Possession of Weapon by Prohibited Persons (Wisconsin Statute Section 941.29); that affiant has worked with local, state and federal law enforcement agents investigating the crime of arson and the use of possession, weapons in the Milwaukee area; that affiant has participated in the execution of several search warrants in which weapons were seized; that affiant is familiar with the different types and caliber's of firearms and ammunition commonly possessed for illegal purposes; that affiant is professionally trained in the use of firearms; that affiant has conducted investigations involving the intentional transfer of a firearm from a non-prohibited person to a prohibited person; that affiant also has experience working with confidential informants, citizen informants, and sources of information;
4. That affiant has also received formal training in the investigation of violent crimes as well as extensive on-the-job training and experience in the investigation of robberies; that affiant has been personally involved in multiple robbery investigations during affiant's tenure with the Milwaukee Police Department wherein these investigations were furthered by subpoenas, warrants and court orders related specifically to the offense of the robbery and that many of those investigations were furthered by evidence recovered under the authority of those search warrants and subpoenas providing critical investigative leads and corroborative evidence;

PROBABLE CAUSE & INVESTIGATION

5. That your affiant is currently investigating, pursuant to affiant's official duties, the crime of Reckless Endangering Safety (941.30); furthermore, that affiant submits this affidavit in support of a search warrant relating to A 2016 Black Ford Fusion 4-Door vehicle assigned Michigan registration

plates of DHJ4061 and a Vehicle Identification Number of 1FA6POHDXG5104964 currently being housed at the Wisconsin Crime Laboratory 1578 S. 11th Street, Milwaukee, WI 53204 ; lastly, that the request for said search warrant is to obtain possible evidence related to the Recklessly Endangering Safety and Obstructing/Fleeing from Officer in Milwaukee Police Department Incident No. 16-2260083 and documentation and identifiers along with DNA evidence and fingerprint evidence establishing who was in control of the aforementioned vehicle during these incidents;

6. That affiant is aware that on Saturday, August 13, 2016 Law Enforcement Officers from the Milwaukee Police Department were assigned to a Directive Patrol Mission DPM while in the area of Sherman Park a Milwaukee County recreational area. While in the Sherman Park area MPD squads were driving north bound in the 3100 block of north 44th Street.
7. MPD officers observed a dark blue or black 4-door vehicle with out of State plates parked on the east side of the street in front of 3206 North 44th street. The parked vehicle was approximately 2 feet away from the curb and there was a large black male standing next to the front passenger door.
8. As the squads were approaching the parked car, the black male leaned into the vehicle for a short period of time, consistent with placing or secreting something within the vehicle and then walked away from the car at a brisk pace. A marked MPD squad pulled up next to the vehicle and observed a black male subject seated in the driver's seat.
9. The officer in the marked MPD squad exited his vehicle and observed that the black male driver had exited the car and was now running in a northerly direction on North 44th Street.
10. Both officers gave chase and followed the subject north on 44th Street. The black male subject then made a turn to go east from the side walk into a walkway in between the address of 3212 and 3216 North 44th Street. During the chase MPD officers observed a black colored hand gun in the subjects' right hand.
11. The subject was ordered to drop the hand gun. The subject fell to the ground as he approached a fence. As the subject got back to his feet he turned towards the officers while picking up the handgun from the ground and raised the gun in the direction of the officers. One MPD officer deployed his firearm and fired several shots at the suspect.
12. The suspect was identified as Sylville K Smith, B/M [REDACTED] of [REDACTED] Milwaukee Wisconsin. Smith died from his injuries and was pronounced dead by Dr. Nicole Lopez of the Milwaukee County Med Base #2274.
13. Agents from the Wisconsin Department of Justice responded to the scene of the incident and forensically processed the exterior of the vehicle. A cursory search of the interior of the vehicle was conducted and the vehicle was secured. The vehicle is currently being stored at the State of Wisconsin Crime Laboratory – Milwaukee Regional office.
14. Your affiant conducted a check with the Wisconsin Circuit Court Program-(CCAP) regarding Sylville K Smith and found one open civil case 2016CV002802: Ivory Cainion vs. Mildred Haynes et al. Smith had two closed civil cases under 2015CV001258 with American Family Mutual Insurance. Smith had four Felony cases, 2015CF003628, 2015CF000571, 2015CF002615 and 2015CF003179 State of Wisconsin vs. Sylville Kwame Smith

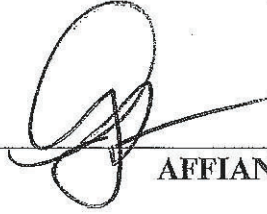
NEXUS

15. That affiant is aware that the proper search of a crime scene or items associated with a crime scene for physical evidence is a critical part of the criminal investigation; that the ability of the investigating officer to identify what constitutes probative or viable physical evidence, and to properly secure and preserve it for trial, is essential to the investigation of the crime and the prosecution of offenders;
16. That affiant is aware that police take fingerprints at various crimes scenes and from various objects suspected of being involved in a crime by applying a powder to the surface where they suspect a fingerprint might be; that when they apply this powder and then remove the powder, that it sticks to where the oil from the fingerprint ridges get deposited; that they then transfer this pattern using sticky tape to a piece of white paper; furthermore, affiant is also aware that DNA can be found anywhere at a crime scene and from various objects suspected of being involved in a crime; that any object or surface that may contain or have been in contact with perspiration, saliva, other bodily fluids, or skin cells from a victim or suspect is of significance to an investigation and should be preserved;
17. That affiant is further aware that vehicles used in the commission of criminal acts have been found to contain both fingerprints and DNA linking a suspect or suspects to a particular offense; that affiant is further aware and has found it incredibly common that motor vehicles often times contain assorted documentation, miscellaneous paperwork, receipts, and/or identifiers not only in the name of the registered owner of said suspect vehicles but also of co-conspirators, boyfriends, girlfriends, acquaintances and/or other individuals who have been authorized to use said vehicles; that this assorted documentation often times is a useful piece of evidence for law enforcement in establishing the identity or identities of individuals suspected of committing said offenses;

CONCLUSION

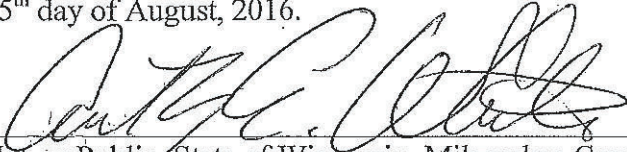
18. **LASTLY**, affiant is aware that a search warrant may be issued when the application establishes probable cause to believe that evidence connected with a crime will be found at the place or item to be searched and that probable cause supporting a search warrant is determined by the "totality of the circumstances" wherein the task of the issuing Judge is to simply make a practical, commonsense decision whether, given all of the circumstances as set forth in the affidavit, that there is a fair probability that contraband or evidence of a crime will be found in a particular place; furthermore, affiant is also aware that the Courts have determined that probable cause is not a technical, legalistic concept, but a flexible common-sense measure of the plausibility of specific conclusions; that elaborate specificity is not required and that probable cause may be supported by inferences as well as facts;
19. **WHEREFORE**, based on the above stated information, affiant further asserts, based upon the facts described above, that affiant has established the requisite amount of probable cause to believe that evidence of the crime Recklessly Endangering Safety contrary to Section Committed in violation section(s) 941.30 Wisconsin State Statutes does now exist within the 2016 Black Ford Fusion 4-Door vehicle assigned Michigan registration plates of DHJ4061 and a Vehicle Identification Number of 1FA6POHDXG5104964 currently being housed and secured at the Wisconsin Crime Laboratory 1578 S. 11th Street, Milwaukee, WI 53204; that affiant requests the Court to issue a warrant for a forensic examination of said vehicle described in this affidavit;

20. This affidavit was reviewed and approved by Assistant District Attorney PAUL TIFIN.



AFFIANT

Subscribed and sworn to before me this
15th day of August, 2016.



Notary Public, State of Wisconsin, Milwaukee County;
My commission is permanent/~~expires~~ _____.

RETURN

CIRCUIT COURT

MILWAUKEE COUNTY

I hereby certify that by virtue of the within warrant S/A martinez and the Wisconsin State Crime Laboratory searched the named Vehicle and found the following items/findings:

DCI Item	Description
1)	Swabs of exterior driver's door handle [REDACTED]
2)	Swabs of exterior driver's side rear door handle [REDACTED]
3)	Swabs of exterior rear passenger side door handle [REDACTED]
4)	Swabs of exterior front passenger side door handle [REDACTED]
5)	Swabs of textured areas on steering wheel [REDACTED]
6)	Swabs of textured areas on gear shift [REDACTED]
7)	Glock 22 (40 cal) handgun with loaded magazine and 1 unfired cartridge in chamber (Serial# EXK186US) from front passenger seat [REDACTED]
8)	Black Samsung flip-phone from front passenger seat DEC: 268435463211884764 HEX: A00 000 48B 558 DC FCC ID: A3LSPHM270 Model: SPH-M270 [REDACTED]
9)	Clear plastic baggie (corner cut) from rear window controls on driver's door interior panel [REDACTED]
10)	White chunky substance [REDACTED]
11)	White and silver iPhone from armrest compartment of center console FCC ID: BCG-E2642A IC: 579C-E2642A IMEI: 358806051935169 [REDACTED]
12)	Black and silver LG cell phone from front passenger cup holder – center console Model # US375 FCC ID: ZNFUS375 S/N: 607CYCV0079659 [REDACTED]
13)	One prescription bottle (amber) containing white pills (“A333”) and blue pills (“E8”) from center console passenger cup holder [REDACTED]
14)	Clear plastic baggie (corner cut) from front window controls on driver's door interior panel [REDACTED]
15)	Off-white chunky substance [REDACTED]
16)	Clear plastic baggie (corner cut) from front passenger cup holder – center console [REDACTED]
17)	Off-white chunky substance [REDACTED]
18)	Clear plastic baggie (corner cut) from front passenger cup holder – center console [REDACTED]
19)	Off-white chunky substance [REDACTED]
20)	\$1 dollar bill from front passenger cup holder (wadded around) [REDACTED]
21)	Clear plastic baggie (corner cut) from driver's cup holder of center console [REDACTED]

- 22) Green plant material [REDACTED]
- 23) Two sets of FORD vehicle keys from storage compartment under stereo [REDACTED]
[REDACTED]
- 24) Fiji water bottle from driver's seat [REDACTED]
- 25) Swab from mouth of item [REDACTED]
- 26) One CD from driver's seat ("PABLO") [REDACTED]
- 27) Pure Delite – grape beverage bottle from rear driver's foot well [REDACTED]
- 28) Swab from mouth of item [REDACTED]
- 29) Ice Mountain water bottle from rear passenger foot well [REDACTED]
- 30) Swab from mouth of item [REDACTED]
- 31) Glass multi-colored smoking pipe from compartment under stereo [REDACTED]
[REDACTED]
- 32) Nokia Cell phone with cracked screen from compartment under stereo
INEI: 355913050394225 CODE: 05950B43UO3 FCC ID: OTLRM-917
MODEL: 521 [REDACTED]
- 33) White and black Clipper (8 ball) lighter from front passenger cup holder – center
console [REDACTED]
- 34) Scrub-A-Dub receipt, 3 printed CD covers and 1 CD-R from center console
armrest compartment [REDACTED]
- 35) Ice Mountain water bottle from underneath front passenger seat [REDACTED]
- 36) Swab from mouth of item [REDACTED]
- 37) 2 portions of lottery tickets from side and underneath driver's seat [REDACTED]
[REDACTED]
- 38) 2016 FORD FUSION owner's manual from rear deck of vehicle (passenger's
side) [REDACTED]
- 39) One unopened small bag of Cheetos from rear deck of vehicle (passenger's side)
[REDACTED]
- 40) White Styrofoam to-go food container from rear deck of vehicle (passenger's
side) [REDACTED]
- 41) \$2 dollar bill collected from glove box [REDACTED]
- 42) Enterprise rental agreement from glove box [REDACTED]
- 43) Latent lifts from Ford Fusion [REDACTED]
- 44) Swab of red/brown stain from hood [REDACTED]
- 45) Misc. items (CD, paper, lighter, wrapper, bottle cap) from compartment under
stereo [REDACTED]
- 46) Misc. items (CD's and hand sanitizer) from front passenger door interior
compartment [REDACTED]
- 47) One pair of blue and grey athletic shoes (size 9), one brown belt, and one Family
Dollar plastic bag from trunk [REDACTED]
- 48) One pair of "Jordan Chang" red pants from trunk [REDACTED]
- 49) One pair of acid wash jeans "Original Vintage Denim" (36/32) with hanger from
trunk [REDACTED]
- 50) One clear plastic dry cleaning bag "Extra Quality" from trunk [REDACTED]
- 51) One Wal-Mart plastic bag from trunk [REDACTED]
- 52) One wire hanger with paper sleeve from trunk [REDACTED]
- 53) Sunglasses, child's toy and Enterprise rental agreement flyer from rear driver's
side seat [REDACTED]
- 54) One plastic Macy's bag from trunk [REDACTED]
- 55) One pair of dark tan "Damati" jeans from trunk [REDACTED]
- 56) One pair of grey Nike athletic shorts (size M) from trunk [REDACTED]
- 57) One black Samsung charger cord from rear driver's seat [REDACTED]

- 58) One pair of "Rock Star" cream/gold colored pants (size 32) from rear driver's seat [REDACTED]
- 59) Misc. items (6 CD's, Prestige Cleaner's receipt, paper and plastic wrappers, sm. Torn lottery ticket, Nestle water bottle, plug for "LG" and hand sanitizer from driver's door interior compartment [REDACTED])
- 60) Ashtray (black) from driver's side cup holder – center console [REDACTED]
- 61) Yellow USB charging cord from under driver's seat – after removal [REDACTED]
- 62) Ring Pop Wrapper from under driver's seat [REDACTED]
- 63) Cigarette butt (roach) from under driver's seat ([REDACTED])
- 64) Cigarette butt (roach) from under driver's seat ([REDACTED])
- 65) Clear capsule (1) pill from under front passenger seat ([REDACTED])
- 66) Portion of "Pick 3" lottery ticket from under front passenger seat ([REDACTED])
- 67) Misc. paperwork contained within Radisson Milwaukee North Shore folder from underneath rear passenger seat back [REDACTED]
- 68) Electronic Media – 1 ScanDisk thumb drive from WSCL [REDACTED]
- 69) 2016 Black Ford Fusion, 4 door – Vin#1FA6P0HDXG5104964, Owner – Enterprise Car Rental

The attached Items will be submitted to the WSCL at a later date.

Dated this 22Nd day of August 22, 2016

Wisconsin Department of Justice Special Agent